

REMARKS/ARGUMENTS

Claims 1-18 are pending. Claim 9 has been amended. Claims 7-8, 10 and 13-14 are presently withdrawn from consideration.

1. Rejection of Claims 1-3, 6, 9, 11-12, 16 and 18 Under §103(a)

Claims 1-3, 6, 9, 11-12, 16 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants Admitted Prior Art (AAPA) in view of U.S. Patent Publication 2001/0026589 (Sugiyama). The Applicant respectfully traverses this rejection.

The Applicant previously distinguished the claimed invention from the prior art, in part, because Sugiyama fails to suggest using reference and differential pictures for processing dynamic graphic content having a plurality of dynamic elements each having a plurality of appearance states leading to a plurality of views.

On page 2 of the Final Office Action, the Examiner maintains the rejection stating that, giving the broadest most reasonable interpretation, a dynamic element is nothing more than a picture. The Examiner explains on page 3 that the recitation “dynamic graphic content that includes a plurality of dynamic elements each of which having a plurality of appearance states leading to a plurality of views” is given no patentable weight because the recitation occurs in the preamble. The Examiner relies on the *In re Hirao* case, where a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone.

The Applicant respectfully traverses the Examiner’s holding that the phrase at issue should not be given any patentable weight. The body of claim 1 begins: “encoding a view in which all of the plurality of dynamic elements being in a first state as a reference picture” (emphasis added). The positive recitation to “all of the plurality of dynamic elements” clearly establishes that the preamble language is not merely directed to intended use, but rather gives meaning to the positively recited “plurality of dynamic elements.” The preamble language

defines the plurality of dynamic elements as each having a plurality of appearance states, and those states lead to a plurality of views. Here, the body of the claim relies on the previous recitation and definition of dynamic elements in the preamble for completeness, and thus must be given patentable weight. Moreover, the Examiner's interpretation of "dynamic element" as nothing more than a picture produces an unsupportable result, as claim 1 would literally read: encoding a view in which all of the plurality of pictures being in a first state as a reference picture. Claim 1 later recites, using the Examiner's definition: encoding remaining views in which at least one of the plurality of pictures being in a state other than the first state. What does it mean for a picture to be in a first state, or other state? The Examiner's interpretation of dynamic element, by ignoring the explicit definition as recited in the preamble of claim 1, produces an incomprehensible result. Therefore, the Applicant respectfully traverses the interpretation given to the "plurality of dynamic elements" as recited in claim 1, and on that basis submits that the claim rejections are erroneous.

Claim 9 has been amended to include the definition of "dynamic element" from claim 1. It is submitted that no new search is required given that, as established above, this language is entitled to, and should have been given, patentable weight, and that the Examiner relies solely on the analysis of claim 1 for the rejection of claim 9.

It is therefore respectfully submitted that, when properly construed, claims 1 and 9 (and therefore claims 2-3, 6, 11-12, 16 and 18 dependent thereon), are not rendered obvious by AAPA in view of Sugiyama.

2. Rejection of Claims 4, 15 and 17 Under §103(a)

Claims 4, 15 and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants Admitted Prior Art (AAPA) in view of Sugiyama, and in further view of Official Notice. The Applicant respectfully traverses this rejection.

Claims 4, 15 and 17 depend from claims 1 or 9, and are therefore considered allowable for the reasons set forth above in Part 1. The addition of Official Notice fails to cure the deficiencies of AAPA and Sugiyama.

4. Rejection of Claim 5 Under §103(a)

Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants Admitted Prior Art (AAPA) in view of Sugiyama, and in further view of U.S. Patent Publication 2003/0159152 (Lin). The Applicant respectfully traverses this rejection.

Claim 5 depends from claim 1, and is therefore considered allowable for the reasons set forth above in Part 1. The addition of Lin fails to cure the deficiencies of AAPA and Sugiyama.

It is therefore respectfully submitted that the present application is in condition for allowance, and action to that end is respectfully requested.

Respectfully submitted,

DLA PIPER US LLP

Dated: June 17, 2011

By: /Alan A. Limbach/
Alan A. Limbach
Reg. No. 39,749
Attorneys for Applicant(s)

Alan A. Limbach
DLA Piper LLP (US)
2000 University Avenue
East Palo Alto, CA 94303-2248
650-833-2433 (Direct)
650-833-2000 (Main)
650-687-1182 (Facsimile)
alan.limbach@dlapiper.com